

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>In re:</b>	)	
	)	<b>CHAPTER 11</b>
<b>PEACH STATE RESTAURANTS, LLC</b>	)	
<b>d/b/a Einstein's, VININGS DINING, LLC</b>	)	<b>CASE NO.: 13-63081</b>
<b>d/b/a Garrison's, MYSTICAL PIZZA, LLC</b>	)	
<b>d/b/a Metrotainment Bakery and</b>	)	<b>(Jointly Administered)</b>
<b>Sugar Shack, and POLITICAL</b>	)	
<b>CONCEPTS, LLC</b>	)	
<b>d/b/a Joe's on Juniper</b>	)	
	)	
<b>Debtors.</b>	)	
	)	

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**AFFIDAVIT OF JEFF LANDAU IN SUPPORT OF  
FIRST DAY APPLICATIONS AND MOTIONS**

STATE OF GEORGIA

COUNTY OF FULTON

PERSONALLY APPEARED before the undersigned officer duly authorized to administer oaths,  
JEFF LANDAU, who, after being duly sworn, states the following under oath:

1. I am the Chief Executive Officer of Peach State Restaurants, LLC ("Peach State"),  
Vinings, Dining, LLC ("Vinings Dining"), Mystical Pizza, LLC ("Mystical Pizza"), and  
Political Concepts, LLC ("Political Concepts") (collectively the "Debtors") which  
maintain offices at 1119 Logan Circle, NW, Atlanta, Georgia, 30318.
2. I have been associated with the Debtors since 1991, and have been the Chief Executive  
Officer since 1991.
3. In my capacity as Chief Executive Officer of the Debtors, I am familiar with the Debtor's  
day to day operations, business affairs, and books and records.

4. On June 13, 2013 (the “Voluntary Petition Date”), the Debtors filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The Debtors intend to continue in possession of their properties, restaurants, and management of their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. In order to enable the Debtors to operate effectively and to avoid the adverse effects of the chapter 11 filings, the Debtors will request various types of relief in “first-day” applications and motions filed with the Court.
5. I submit this affidavit in support of the first-day applications and motions in the above-captioned Chapter 11 cases on behalf of the Debtors. (Any capitalized term not expressly defined herein shall have the meaning ascribed to that terms first-day motions or application.) Except as otherwise indicated, all facts set forth in this affidavit are based upon my personal knowledge, my review of relevant documents, or my opinion, based upon my experience and knowledge of the Debtors’ operations and financial conditions or information reported to me in the course of my duties by the Debtors’ officers, agents, or employees. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized by the Debtors to submit this affidavit.
6. Part I of this affidavit describes the Debtors’ businesses and the circumstances surrounding the filing of the voluntary Chapter 11 petition and Part II sets forth the relevant facts in support of the Debtors’ various first day applications and papers filed concurrently herewith.

## **INTRODUCTION**

7. The Debtors are Georgia Corporations headquartered in Atlanta, Georgia. Peach State was incorporated on May 21, 1991 and opened Einstein's Restaurant in Atlanta, Georgia in 1991. Vinings Dining was incorporated on April 28, 1998 and opened Garrison's Restaurant in Atlanta, Georgia in 1998. Mystical Pizza was incorporated on December 29, 1995 and opened Metrotainment Bakery in 1995 and Sugar Shack in 2010. Political Concepts was incorporated on May 7, 1996 and opened Joe's on Juniper Restaurant in 1996.
8. In fiscal year 2012, Peach State had total revenues of \$3,199,500.00, Vinings Dining had total revenues of \$2,491,885.00, Mystical Pizza had total revenues of \$808,560.00, and Political Concepts had total revenues of \$3,063,477.00.
9. On June 19, 2013 Peach State employed approximately 81 persons, Vinings Dining employed approximately 52 persons, Mystical Pizza employed approximately 30 persons, and Political Concepts employed approximately 65 persons.
10. The Debtors' primary businesses are the operation of full-service casual dining restaurants targeted towards, singles, couples, and families. Einstein's, Garrison's, Metratainment, Sugar Shack, and Joe's on Juniper restaurants offer a diverse, moderately priced lunch and dinner menus.
11. The Debtors' focus in fiscal year 2013 will be on maximizing its investment in their existing restaurants and development of systems to more effectively manage the Debtors' operations.

## **FIRST DAY MOTIONS AND APPLICATIONS**

12. An important element of the Debtors' successful Chapter 11 chases is approval of each of the Debtors' first-day motions and applications submitted concurrently herewith. In furtherance of the objective of a successful reorganization, the Debtors respectfully request that "first day" orders mentioned below be entered. Factual information in support of the Debtors' requests for entry of such first-day orders is provided below and in the motions filed concurrently herewith. Through this Affidavit I will use the defined phrase "Pre-Relief or "Pre-Relief Date" to refer to that period prior to the date this Court issues an order granting the Voluntary Petition.

#### **Establish Notice Procedures**

13. The Debtors have approximately 45 creditors. These parties in interest include secured creditors, unsecured trade creditors, and landlords. Service of all pleadings, notices, and other papers on such a large number of parties in interest would be extremely burdensome and would require the Debtors' to extend substantial funds in copying costs, postage charges, and other handling expenses. The administrative burden associated with such a task would also be substantial. Because most matters do not impact the interests of all creditors, providing notice to every creditor is often wasteful and unnecessary.

#### **Need for Expedited Hearings**

14. The Debtors filed contemporaneously herewith certain motions and applications in which the Debtor seeks on an emergency basis (the "Emergency Motions"). The relief requested in each of the Emergency Motions is necessary to avoid direct, immediate, and substantial harm to the Debtors' estate. As more fully set forth in each of the Emergency Motions, if the Debtors are not granted the relief requested, then the Debtors' business

operations and the Debtors' ability to successfully reorganize its business and financial affairs will be irreparably harmed.

**Pay Pre-Relief Employee Wages and Benefits**

15. Each restaurant staffs approximately 60 employees. The Debtors concurrently employ 1 area supervisor, who is responsible for 5 restaurants.
16. Each restaurant generally operates with a general manager, a dining room manager, a kitchen manager, and one or two assistant managers depending on volume. The general manager of each restaurant has primary responsibility for managing the day-to-day operations of the restaurant in accordance with the Debtors' standards. The general manager and kitchen manager of each restaurant is generally responsible for interviewing, hiring, and training restaurant staff.
17. The Debtors devote a significant amount of time and resources to restaurant management and staff training. Each new manager participates in an extensive training program before assuming a management position.
18. The development and success of the Debtors' restaurants depend, in large part, on the efforts, abilities, experience and reputations of the general managers and other personnel at such restaurants. The Debtors' inability to retain high-quality management personnel may result in higher employee turnover in existing restaurants, which could materially and adversely affect the Debtors' results of operations or business.
19. The Debtor's employees have claims against the Debtors that include wages, salaries, incentives, holiday and vacation pay, sick leave pay, long and short term disability income protection, life insurance 401k contributions, deferred compensation plans, payroll deductions to custodial accounts, reimburseable business expenses, and medical,

vision, and dental benefits (collectively referred to herein as the “Pre-Relief Employee Claims”).

20. On June 19, 2013, prior to the commencement of this proceeding, the Debtors distributed payroll checks to its employees (the “Pre-Relief Payroll”) in the ordinary course of business. The total amount of such payroll plus federal, state, and local tax burdens was approximately \$33,033.00 for Peach State, \$27,166.00 for Vinings Dining, \$20,899.00 for Mystical Pizza, and \$27,382.00 for Political Concepts.
21. The next normal payroll to the Debtors’ employees is scheduled to be made July 3, 2013. Such payroll is for the Pre-Relief period of June 12, 2013 through June 25, 2013. The estimated amount of this payroll including, federal, state, and local tax burdens is approximately \$33,033.00 for Peach State, \$27,16.00 for Vinings Dining, \$20,899.00 for Mystical Pizza, and \$27,382.00 for Political Concepts. Subsequent payrolls to be paid on bi-weekly, 2013 include Pre-Relief amounts of approximately \$33,033.00 for Peach State, \$27,166.00 for Vinings Dining, \$20,0899.00 for Mystical Pizza, and \$27,382.00 for Political Concepts.
22. The Debtors’ medical coverage is through Aetna. Under this arrangement, the Debtors are likely to pay monthly insurance premiums of \$158.00 for Peach State, \$97.64 for Vinings Dining, \$48.82 for Mystical Pizza, and \$97.64 for Political Concepts.
23. In compliance with statutory requirements, the Debtors maintained and presently maintain a workers compensation program. The program is maintained with Harleysville Insurance and is administered by Pritchard and Jerden.
24. Under the workers’ compensation program, each year the Debtors make approximately \$12,675.00 for Peach State, \$9,767.00 for Vinings Dining, \$8,074.00 for Mystical Pizza,

and \$9,919.00 for Political Concepts in payments. Outstanding claims as of June 25, 2013 are estimated at \$1,000.00 for Peach State, \$1,000.00 for Vinings Dining, \$1,000.00 for Mystical Pizza, and \$1,000.00 for Political Concepts.

25. The Debtors believe that the requested authorization to maintain its workers compensation program would both maintain the status quo in providing the required coverage and, more importantly, guarantee continued benefits to employees injured during the course of the Debtors businesses.
26. As a convenience to its employees, the Debtors make deductions from the employees' payroll check and subsequently pays those funds, along with any required employee funds, to various third parties. These payroll deductions are for such items as medical savings accounts, dental insurance premiums, disability insurance premiums, term life premiums, dependent child care, and claims under writs of garnishments. The Debtor estimates that as of the Pre-Relief Date, the Debtor was holding approximately \$580.00 for Peach State, \$266.00 for Vinings Dining, \$565.00 for Mystical Pizza, and \$665.00 for Political Concepts of such payroll deductions for the described various employee purposes.
27. The Debtors have maintained, in the ordinary course of their businesses, a policy whereby employees accrue an entitlement to paid holiday and vacation days. The Debtors believe the cost attributable to holiday and vacation pay to be minimal although the exact amount of such pay and entitlements cannot be determined at this time. However, like the Debtors' other employee programs, failure to honor existing holiday and vacation policies will result in low employee morale, ill-will and decreased productivity and effectiveness.

### **Honor Customer Gift Certificates**

28. In the ordinary course of its businesses, the Debtors sells gift certificates to customers and otherwise issues coupons that customers may use to make purchases at the Debtors' restaurants (the "Gift Certificates". Many of the Gift Certificates issued Pre-Relief Date have not been redeemed.
29. For the twelve months ending June 15, 2013, the Debtors averaged, on a monthly basis, sales of \$271,000.00 for Peach State, \$211,000.00 for Vinings Dining, \$67,000.00 for Mystical Pizza, and \$258,000.00 for Political Concepts in Gift Certificates, and annual redemptions of Gift Certificates totaling \$10,000.00 for Peach State, \$9,000 for Vinings Dining, \$2,800.00 for Mystical Pizza, and \$4,400.00 for Political Concepts. The Debtors estimate that as of the Pre-Relief Date there are approximately \$30,000.00 for Peach State, \$27,000.00 for Vinings Dining, \$8,400.00 for Mystical Pizza, and \$13,000.00 for Political Concepts in Gift Certificates.
30. If the Debtors are not able to honor the Gift certificates, then the Debtors will suffer a negative impact on the Debtors image and sales and the Debtors will be severely and irreparably harmed by the resulting ill-will towards the Debtors. Any decrease in customer loyalty and sales could have a significant negative effect on Debtors' ability to successfully reorganize.

### **Adequate Assurance of Payment to Critical Trade Vendors**

31. The Debtors, in their businesses rely on certain critical vendors who provide goods and/or services without which the Debtors could not survive in the near term.
1. Royal Food Services, Inc., Sysco Co., Buckhead Beef Co., Edward Don & Co., and Dade Paper & Bag Co. (hereafter "Critical Vendors") are food distribution companies and



service providers that provide substantially all of the food and consumable products to the Debtors' restaurants. The Critical Vendors provide Debtors with the inventory and perishable goods to Debtors' businesses. Cessation of these services would quickly result in a severe sales impact given the speed at which restaurant inventory turns and the catastrophic impact that a lack of necessary ingredients would have on a diner's willingness to eat at the Debtor's restaurants. The Debtor estimates that, as of the Petition Date, it owes approximately \$27,000.00 to Royal Food Services, Inc.; \$130,000.00 to Sysco Corporation; \$109,000.00 to Buckhead Beef Atlanta; \$12,500.00 to Edward Don and Company; and \$34,500.00 to Dade Paper Company.

32. Payment to the Critical Vendor Claims is vital to the Debtors' reorganization effort as (a) the goods and services provided by the Critical Vendors are often the only source from which the Debtors can procure certain goods or services, (b) failure to pay the Critical Vendors would, in the business judgment of the Debtors, very likely result in the Critical Vendors terminating their provision of goods and/or services to the Debtors, and/or (c) the Critical Vendors would themselves be irreparably damaged by the Debtors' failure to pay their Pre-Relief Claims, resulting in the Debtors being forced to try to obtain goods and services elsewhere that would either not be available, be at a higher price, at unfavorable terms to the Debtors, or not of the quality required by the Debtors.

**Retention of Busch, Slipakoff, & Schuh, LLP**

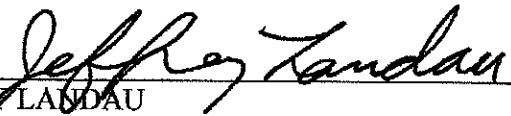
33. Continued representation of the Debtors by its restructuring and bankruptcy counsel, Busch, Slipakoff, & Schuh, LLP ("BSS"), is critical to the success of the Debtor's reorganization.

34. The Debtor selected the firm of BSS as attorneys because of the firm's extensive experience with and knowledge of the Debtors' businesses and financial affairs.
35. The Debtors desire to employ the firm of Busch, Slipakoff, & Schuh, LLP on an hourly basis because of the extensive legal services that will be required in connection with the Chapter 11 cases.

#### **Adequate Assurance of Payment to Utilities**

36. In connection with the operation of its businesses, the Debtors obtain electricity, natural gas, water, telephone and other similar services from several utility companies or utility divisions. Any interruption in these services would seriously disrupt the Debtors' normal day-to-day operations, thereby causing potentially irreparable harm to the daily cash flow and reorganization of the Debtor.
37. Pre-Relief Date, the Debtors maintained payment histories with these numerous utility companies. The Debtors consistently made timely payments of their utility bills, and to the best of Debtors' knowledge, there were no past due arrearages on any utility services, except for those bills that had accrued Pre-Relief Date and became due after the relief date that cannot be paid due to the Chapter 11 order being entered.
38. In the normal course of business, only minor deposits were required by the utility companies to connect and/or continue service for the Debtor.

Further Affiant sayeth not.

  
JEFF LANDAU

Sworn to and subscribed before me  
this 26 day of June, 2013.

  
Notary Public

My Commission expires: 6-1-2017

[SEAL]

JAMES P. BELLEW  
COMMISSION BEGINS ON THE 2ND DAY OF  
JUNE, 2013  
AND EXPIRES ON THE 1ST DAY OF  
JUNE, 2017

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served a copy of the above and foregoing Affidavit upon the following by placing a copy of the same in the United States Mail, first class, with sufficient postage thereon to ensure delivery, addressed as follows:

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***Attached Matrix***

Dated June 26, 2013.

**BUSCH, SLIPAKOFF & SCHUH, LLP**

/s/ Mathew A. Schuh

Mathew A. Schuh

Georgia Bar No.: 630253

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Apex  
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Atlanta, GA 30356

Buckhead Beef  
4500 Wickesrham Drive  
Atlanta, GA 30337

Christ Kuffman Enterprises  
4253 Zephyrhills Drive  
Acworth, GA 30101

City of Atlanta Watershed Mang  
55 Trinity Avenue  
Suite 5400  
Atlanta, GA 30303

Commercial Kitchen Installers  
224 Brown Industrial Parkway  
Unit 107  
Canton, GA 30114

Dade Paper  
600 Hartman Industrial Ct. SW  
#200  
Austell, GA 30168

Deborah A. Deal  
3731 Northcrest Road #1  
Atlanta, GA 30340

DirectTV  
PO Box 5392  
Miami, FL 33152-5392

EcoLab  
2221 Newmarket Parkway  
Suite 142  
Marietta, GA 30067

EcoPest  
26252 Network Place  
Chicago, IL 60673-1262

Edward Don & Company  
2562 Paysphere Circle  
Chicago, IL 60674

Engleman's  
6185 Brook Hollow Parkway  
Norcross, GA 30071

Fidelity Bank  
P.O. Box 105075  
Atlanta, GA 30348

Fire Equipment Specialists Co.  
PO Box 440242  
Kennesaw, GA 30160

Georgia Department of Revenue  
1800 Century Blvd., NE  
Atlanta, GA 30345-3205

Georgia Power Co.  
96 Annex  
Atlanta, GA 30396-0001

Green Guard First Aid & Safety  
4159 Shoreline Drive  
St. Louis, MO 63045

H&S Window Cleaning  
PO Box 3654  
Alpharetta, GA 30023

iControl-Enterprise.com  
6445 Barwick Lane  
Duluth, GA 30097

Industrial Steam Cleaning  
PO Box  
Alpharetta, GA 30023

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networsystems.com  
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Political Concepts, LLC  
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Atlanta, GA 30318

Political Concepts, LLC  
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Atlanta, GA 30318

Political Concpets, LLC  
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Atlanta, GA 30318



Poltical Concepts, LLC  
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Scana  
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Columbia, SC 29202-3157

Stanley Convergent  
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Tucker, GA 30084

Sunshine Parking  
P.O. Box 420675  
Atlanta, GA 30342

Sysco Food Services  
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College Park, GA 30349

TriMark South  
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Atlanta, GA 30318

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Atlanta, GA 30318

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